IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 5598 of 2005

Between:

1 M. Suresh Babu, S/o Venkateswara Rao,
R/o Flat No. 403, 5th Floor, Sairam Apartments, Maharanipeta,

Visakhapatnam - 530 002.
2 Palacherla Vishnuvardhan, S/o Govinda Rao,
R/o Dr.No. 4-138, Near Mahalakshmi Temple, Kurmannapalem,

Visakhapatnam - 530 046.
3 R. Srinivasa Rao, s/o R. Suryanarayana,
R/o 15-116, Chaitanya Nagar, Chinagantyada, Old Gajuwaka,

Visakhapatnam.

..... PETITIONERS

AND

1 The District Collector, Visakhapatnam District, Visakhapatnam.
2 The Sub Registrar, Madhurawada, Visakhapatnam,
Visakhapatnam District.

.....RESPONDENTS

The Court made the following:

ORDER:

This writ petition has been filed by the petitioners, who are three in

number with a prayer to issue a writ of mandamus by declaring the letter No.Nil dated 08-02-2005 issued by the Sub Registrar, Madhurawada, Visakhapatnam-second respondent and proceedings of the District Collector, Visakhapatnam-first respondent dated 10-01-2005 in Rc.79/2005/E-1, as illegal and arbitrary and consequently, direct the Sub Registrar, Madhurawada, Visakhapatnam-second respondent to receive and register the sale deeds presented by them.

2 . M.Suresh Babu has sworn to the writ affidavit. The case of the petitioners as disclosed in the affidavit filed in support of the writ petition is as follows:

The petitioners 1 and 2 are joint owners of an extent of Ac.5.00 in Sy.No.348/1 of Madhurawada village, Visakhapatnam, having purchased the same under a registered sale deed dated 21-06-2004 from B.Venkata Ramana-an ex-service man. An extent of Ac.5-00 of land was assigned to B.Venkata Ramana, who is an ex-service man under proceedings in Rc.209/79, dated 04-06-1979 issued by the Tahasildar. The third petitioner is owner of an extent of Ac.2-00 in Sy.No.349/2 of Madhurawada village, Visakhpatnam, having purchased the same under registered sale deed dated 19-06-2004 from N.Simhachalam-an ex-serviceman. The said Simhachalam was assigned Ac.3-00 by the then Tahasildar under a 'D' Form patta dated 03-04-1970. The Government issued G.O.Ms.No.1117 Revenue (Asn.I) Department, dated 11-11-1993 enabling the ex-servicemen to alienate their respective lands within 10 years from the date of assignment. B.Venkata Ramana and N.Simhachalam obtained necessary permission from the authorities and sold the assigned lands. The petitioners purchased the assigned lands under registered sale deeds and later obtained pattadar passbook/title deed under the provisions of A.P. Record of Rights in Land and Issuance of Pattadar Passbooks Act, 1971. The petitioners 1 and 2 sold Ac.1-00 of land in favour of M.Aparna and presented the sale deed before the Sub Registrar for registration. The second respondent-Sub Registrar refused to register the sale deed by referring a letter dated 10-01-2005 issued by the District Collector-first respondent. The third petitioner also presented a document for registration. The second respondent-Sub Registrar refused to receive the documents for registration in view of the letter addressed by the District Collector, Visakhapatnam-first respondent. The

petitioners filed W.P.M.P.No.7411 of 2005 seeking interim relief. This Court passed an interim order on 31-03-2005, which reads as follows:

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"The learned Government Pleader for Revenue seeks time for filing counter.

The contention of the learned senior counsel appearing for the petitioners is that the petitioners apprehend that the Government is enhancing the rates of registration and the values of the lands in several areas and so in the event of the petitioners succeeding in the writ petition, they (petitioners) would be put the necessity of paying higher stamp duty and higher registration fees for no fault of theirs because of the laches on the part of the respondents and so, pending further orders in this writ petition, a direction may be given to the respondents to receive the documents and keep them pending, so that registration of those documents can be decided in accordance with the orders passed by this court so that petitioners would not be put the necessity of paying the enhanced rates of stamp duty or the registration charges, if any.

The learned Government Pleader contends that the Government, no doubt, is contemplating to enhance the rates of registration and the values, but it is not likely to materialize till about one month.

If sales are increased during the pendency of this petition as rightly contended by the learned senior counsel for the petitioners, if ultimately the petitions were to be allowed, petitioners would necessarily have to pay the enhanced rates of registration and stamp duty, for no fault of theirs and if the writ petitions were to be dismissed the documents would be returned to the petitioners without registration. So, I deem it appropriate to direct the respondents to receive the documents presented by the petitioners and keep them pending registration with them till disposal of the writ petition, so that the petitioners, in the event of petition being allowed, would not be put the necessity of paying the enhanced rates, if any, during the pendency of the writ petition.

Post on 12.04.2005."

3 . In pursuance of the orders passed by this Court, the second

respondent received the sale documents presented by the petitioners.

4. The respondents filed counter-affidavit. One Praveen Prakash has sworn to the counter-affidavit. It is stated in the counter-affidavit that assignments said to have been made in the name of ex-servicemen are bogus and a detailed investigation has been ordered and the same is in progress. If the documents are registered pending investigation, there is every possibility of creating third party interest and the nature of the land is likely to be changed. I deem it appropriate to refer the relevant portion of the counter-affidavit and it reads thus:

> "The then Tahsildar who is said to have issued 'D' form pattas to those 4 persons have also given statement during the enquiry that he has not issued any such pattas and the signature found on the pattas is not his signature. In view of the fraudulent pattas forged by some Ex-servicemen, the Joint Collector conducted a detailed enquiry in respect of some more files for which no Darakasth Register files are available. In so far as the claim of the petitioners that their vendors are ex-servicemen and they were also granted assignment by the then Tahsildar is verified to and the concerned Darakhasth Register files could not be traced for those assignments. In the circumstances, the entire matter pertaining to the assignment of lands in various Survey numbers in Madhurawada village was reported to the Station House Officer, Bheemunipatnam for investigation and the same is still pending with the police concerned. It is true that at one point of time when the fraud was not noticed, the petitioners were given pattas pass book and title deeds believing their version about the purchase of the properties. However, subsequently as it came to light that the alleged assignments in favour of the Ex-servicemen to the lands in different survey numbers in Madhurawada village are bogus, a detailed investigation is ordered. Before investigation is concluded, the lands are being transferred to various persons and as innocent are being trapped in such transactions to avoid the transfers the proceedings are issued prohibition registration. These instructions are issued keeping the larger interests of the innocent citizens who may part with their valuable money to but the lands belong to the Government. The petitioners have been seeking a declaration through Court that the said instructions were issued by the District Collector are illegal and for a consequential direction to register the document. In view of the said prayer unless and until the necessary declaration is given by the Hon'ble High Court, the petitioners cannot seek the consequential relief."

5. Heard the learned Senior Counsel appearing for the petitioners and learned Government Pleader for Revenue appearing for the respondents.

6. The learned Senior Counsel appearing for the petitioners submits that the first respondent has no authority or jurisdiction to issue instructions to the second respondent not to register and release the documents once requisite stamp duty is paid. He further submits that neither the first respondent-District Collector nor the Sub Registrar-second respondent has any power to go into the question of title as long as the Government has not issued any notification under Section 22-A of the Registration Act (for brevity 'the Act'), and the second respondent-Sub Registrar is bound to register and release the documents, of course after satisfying himself as to the identity of the persons who have executed the documents. He placed reliance on the judgment of this Court in **Kunchanapalli Mysooraiah v. The Sub Registrar, Cudapah and others**.

7. Learned Government Pleader appearing for the Revenue for the respondents, on the other hand, submits that the lands in question are Government lands and bogus assignments have been created by the ex-servicemen from whom the petitioners purchased the lands. He further submits that the investigation is in progress and if the documents are registered pending investigation, the very purpose of investigation would be defeated. He also submits that issuing notification under Section 22-A of the Act requires the proposals to be sent by the District Collector which must be preceded by an enquiry. Since an enquiry is in progress, the stage of issuing notification under Section 22-A of the Act has not yet come.

8. In view of the facts and circumstances of the case, I deem it appropriate to direct the second respondent to register the documents and withhold the same for a period of two months within which period if the investigation is not completed, the second respondent is bound to release the

documents to the petitioners.

9. The writ petition is accordingly disposed of. No order as to costs.

05th October, 2005

SKM